

SENATE BILL No. 242

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8.

Synopsis: Police pension benefits. Increases the retirement, disability, and survivor benefits by 50% for police officers who: (1) are members of the 1925 fund, the 1953 fund, or the 1977 fund; and (2) retire, become disabled, or die after December 31, 2007. Provides for a one time adjustment in the benefits of police officers who retire, are disabled, or die before January 1, 2008.

Effective: January 1, 2008.

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January 11, 2007, read first time and referred to Committee on Pensions and Labor.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 242

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-8-6-8, AS AMENDED BY P.L.62-2006,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2008]: Sec. 8. (a) For a member who became disabled
4 before July 1, 2000, the 1925 fund shall be used to pay a pension in a
5 sum determined by the local board, but not exceeding:
6 (1) for a disability or disease occurring before July 1, 1982, fifty
7 percent (50%); and
8 (2) for a disability or disease occurring after June 30, 1982,
9 fifty-five percent (55%);
10 of the salary of a first class patrolman, to a member of the police
11 department who has suffered or contracted a mental or physical disease
12 or disability that renders the patrolman unable to perform the essential
13 functions of any duty in the police department, considering reasonable
14 accommodation to the extent required by the Americans with
15 Disabilities Act. If a member who becomes eligible for a disability
16 pension has more than twenty (20) years of service, the member is
17 entitled to receive a disability pension equal to the pension the member

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would have received if the member had retired on the date of the disability.

(b) Except as otherwise provided in this subsection, for a member who becomes disabled after June 30, 2000, the 1925 fund shall be used to pay a pension in a sum determined by the local board. ~~but not exceeding~~ **The pension may not exceed** fifty-five percent (55%) of the salary of a first class patrolman **for a member who becomes disabled before January 1, 2008. The pension may not exceed eighty-three percent (83%) of the salary of a first class patrolman for a member who becomes disabled after December 31, 2007. The pension under this subsection may be paid only** to a member of the police department who has suffered or contracted a mental or physical disease or disability:

(1) that is:

(A) the direct result of:

- (i) a personal injury that occurs while the fund member is on duty;
- (ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or
- (iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment. A disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

- (i) there is a connection between the conditions under which the fund member's duties are performed and the disease;
- (ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and
- (iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13 or IC 5-10-15; and

(2) that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

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1 If a member who becomes eligible for a disability pension has more
 2 than twenty (20) years of service, the member is entitled to receive a
 3 disability pension equal to the pension the member would have
 4 received if the member had retired on the date of the disability.

5 (c) Except as otherwise provided in this subsection, for a member
 6 who becomes disabled after June 30, 2000, the 1925 fund shall be used
 7 to pay a pension in a sum determined by the local board. ~~but not~~
 8 ~~exceeding~~ **The pension may not exceed fifty-five percent (55%) of the**
 9 **salary of a first class patrolman for a member who becomes disabled**
 10 **before January 1, 2008. The pension may not exceed eighty-three**
 11 **percent (83%) of the salary of a first class patrolman for a member**
 12 **who becomes disabled after December 31, 2007. The pension under**
 13 **this subsection may be paid only** to a member of the police
 14 department who has suffered or contracted a mental or physical disease
 15 or disability:

16 (1) that is not described in subsection (b)(1); and

17 (2) that renders the member unable to perform the essential
 18 functions of any duty in the police department, considering
 19 reasonable accommodation to the extent required by the
 20 Americans with Disabilities Act.

21 If a member who becomes eligible for a disability pension has more
 22 than twenty (20) years of service, the member is entitled to receive a
 23 disability pension equal to the pension the member would have
 24 received if the member had retired on the date of the disability.

25 (d) The member must have retired from active service after a
 26 physical examination by the police surgeon or another surgeon
 27 appointed by the local board. The disability must be determined solely
 28 by the local board after the examination and a hearing conducted under
 29 IC 36-8-8-12.7. A member shall be retained on active duty with full pay
 30 until the member is retired by the local board because of the disability.

31 (e) After a member has been retired upon pension, the local board
 32 may, at any time, require the retired member to again be examined by
 33 the police surgeon or another surgeon appointed by the local board.
 34 After the examination, the local board shall conduct a hearing under
 35 IC 36-8-8-12.7 to determine whether the disability still exists and
 36 whether the retired member should remain on the pension roll. The
 37 retired member shall be retained on the pension roll until reinstated in
 38 the service of the police department, except in case of resignation. If
 39 after the examination and hearing the retired member is found to have
 40 recovered from the member's disability and to be again fit for active
 41 duty, then the member shall be put on active duty with full pay and
 42 from that time is no longer entitled to payments from the 1925 fund. If

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the member fails or refuses to return to active duty, the member waives all rights to further benefits from the 1925 fund.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below:

(1) the amount of the first full monthly pension received by that person; or

(2) **either:**

(A) fifty-five percent (55%) of the salary of a first class patrolman for a member who becomes disabled before January 1, 2008; or

(B) eighty-three percent (83%) of the salary of a first class patrolman for a member who becomes disabled after December 31, 2007;

whichever is greater.

(g) Time spent receiving disability benefits is considered active service for the purpose of determining retirement benefits until the member has a total of twenty (20) years of service.

(h) A fund member who is receiving disability benefits under subsection (a) or (c) shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

(i) A fund member who is receiving disability benefits under subsection (b) is entitled to:

(1) receive a disability benefit for the remainder of the fund member's life; and

(2) have the amount of the disability benefit computed under section 9 of this chapter when the fund member becomes fifty-five (55) years of age.

SECTION 2. IC 36-8-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 9. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1925 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department **for a member who retires before January 1, 2008, or seventy-five percent (75%) of the salary of a first class patrolman in the police department for a member who retires after December 31, 2007, plus:**

(1) for a member who retires before January 1, 1986, two percent

(2%) of the first class patrolman's salary for each year of service;

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or

(2) for a member who retires after December 31, 1985, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. However, the pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman **for a member who retires before January 1, 2008, or one hundred percent (100%) of the salary of a first class patrolman for a member who retires after December 31, 2007.** The pensions shall be computed on an annual basis but shall be paid in not less than twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) If a member voluntarily retires after twenty (20) or more years of service, the member is entitled to retirement and the pension, without reference to ~~his~~ **the member's** physical condition at the time of application. However, ~~he~~ **the member** then relinquishes all rights to other benefits or pensions for temporary disability. After retirement the member is not required to render further services on the police department, is no longer subject to the rules of the department, and may not be deprived of other benefits under this chapter that may accrue to ~~him~~ **the member** or ~~his~~ **the member's** dependents.

(d) To be retired based upon length of service, only the time served by the member on the regularly constituted police department may be computed. Time served by a member as a special police officer, a merchant police officer, or a private police officer may not be considered in computing length of service.

SECTION 3. IC 36-8-6-9.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 9.6. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 10.1 of this chapter).

(b) A payment shall be made to the surviving spouse of a deceased member in an amount fixed by ordinance, but at least an amount equal to the following:

(1) To the surviving spouse of a member who died before January 1, 1989, an amount equal to thirty percent (30%) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue

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during the life of the surviving spouse.

(2) Except as otherwise provided in this subdivision, to the surviving spouse of a member who dies after December 31, 1988, an amount per month, during the spouse's life, equal to:

(A) for a member who dies before January 1, 2008, the greater of:

~~(A)~~ (i) thirty percent (30%) of the monthly pay of a first class patrolman; or

~~(B)~~ (ii) fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death; or

(B) for a member who dies after December 31, 2007, the greater of:

(i) forty-five percent (45%) of the monthly pay of a first class patrolman; or

(ii) eighty-three percent (83%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the amount under clause ~~(B)~~; **(A)(ii) or (B)(ii)**, the member's benefit shall be considered to be fifty percent (50%) of the monthly salary of a first class patrolman **for a member who dies before January 1, 2008, or seventy-five percent (75%) of the salary of a first class patrolman for a member who dies after December 31, 2007.** The amount provided in this subdivision is subject to adjustment as provided in subsection (e).

(c) Except as otherwise provided in this subsection, a payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month **for a member who dies before January 1, 2008, or thirty percent (30%) of the monthly pay of a first class patrolman per month for a member who dies after December 31, 2007:**

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

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1 whichever period is longer. However, the total of benefits under this
 2 subsection added to the benefits under subsection (b) may not exceed
 3 the maximum benefits computed under section 9 of this chapter for
 4 pension payments to a member who retires from active service after
 5 twenty (20) years or more of active service. This maximum benefit is
 6 equal to fifty percent (50%) of the salary of a first class patrolman in
 7 the police department **for a member who dies before January 1,**
 8 **2008, or seventy-five percent (75%) of the salary of a first class**
 9 **patrolman in the police department for a member who dies after**
 10 **December 31, 2007,** plus, for a member who retired before January 1,
 11 1986, two percent (2%) of the first class patrolman's salary for each
 12 year of service of the retired member over twenty (20) years or, for a
 13 member who retires after December 31, 1985, plus one percent (1%)
 14 of the first class patrolman's salary for each six (6) months of service
 15 of the retired member over twenty (20) years. However, the maximum
 16 benefit may not exceed in any year an amount greater than seventy-four
 17 percent (74%) of the salary of a first class patrolman **for a member**
 18 **who dies before January 1, 2008, or one hundred percent (100%)**
 19 **of the salary of a first class patrolman for a member who dies after**
 20 **December 31, 2007.**

21 (d) Except as otherwise provided in this subsection, if a deceased
 22 member leaves no surviving spouse and no child who qualifies for
 23 benefits under subsection (c) but does leave a dependent parent or
 24 parents, an amount equal to twenty percent (20%) of the monthly pay
 25 of a first class patrolman **for a member who dies before January 1,**
 26 **2008, or thirty percent (30%) of the monthly pay of a first class**
 27 **patrolman for a member who dies after December 31, 2007,** per
 28 month from the time of the member's death shall be paid to the
 29 dependent parent or parents during their dependency. When both
 30 parents survive, the total amount is still twenty percent (20%) **or thirty**
 31 **percent (30%), as the case may be,** to be paid to them jointly. In all
 32 cases of payment to a dependent relative of a deceased member, the
 33 board is the final judge of the question of necessity and dependency
 34 and of the amount to be paid. The board may also reduce or terminate
 35 temporarily or permanently a payment to a dependent relative of a
 36 deceased member when it determines that the condition of the fund or
 37 other circumstances make this action necessary.

38 (e) If the salary of a first class patrolman is increased or decreased,
 39 the pension payable under this section shall be proportionately
 40 increased or decreased. However, the monthly pension payable to a
 41 member or survivor may not be reduced below the amount of the first
 42 full monthly pension received by that person.

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SECTION 4. IC 36-8-6-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 10.1. (a) This section applies to a member who dies in the line of duty after August 31, 1982.

(b) The surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but no less than fifty percent (50%) of the monthly wage received by a first class patrolman **for a member who dies before January 1, 2008, or seventy-five percent (75%) of the monthly wage received by a first class patrolman for a member who dies after December 31, 2007.** If the surviving spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) A payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month **for a member who dies before January 1, 2008, or thirty percent (30%) of the monthly pay of a first class patrolman per month for a member who dies after December 31, 2007,** to each child:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longer.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman **for a member who dies before January 1, 2008, or forty-five percent (45%) of the monthly wage received by a first class patrolman for a member who dies after December 31, 2007.** However, this limitation does not apply to the children of a member who are physically or mentally disabled.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%)

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of the monthly pay of a first class patrolman **for a member who dies before January 1, 2008, or thirty percent (30%) of the monthly pay of a first class patrolman for a member who dies after December 31, 2007**, per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%) **or thirty percent (30%), as the case may be**, to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member in the member's capacity as a police officer:

- (1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
- (2) performs in the course of controlling or reducing crime or enforcing the criminal law.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(h) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health

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insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).

SECTION 5. IC 36-8-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 11. The 1925 fund shall be used to pay an amount, equal to the pensions provided by this chapter in the case of voluntary retirement after twenty (20) years' service, to a member of the police department who is dismissed for any reason after having been in actual service for twenty (20) years, including two percent (2%) additional for each full year of service in excess of twenty (20) years' service. However, a pension under this section may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman **for a member who is dismissed before January 1, 2008, or one hundred percent (100%) of the salary of a first class patrolman for a member who is dismissed after December 31, 2007.**

SECTION 6. IC 36-8-7.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 12. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department **for a member who retires before January 1, 2008, or seventy-five percent (75%) of the salary of a first class patrolman in the police department for a member who retires after December 31, 2007, plus:**

- (1) for a member who retires before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service; or
- (2) for a member who retires after December 31, 1985, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. The pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman **for a member who retires before January 1, 2008, or one hundred percent (100%) of the salary of a first class patrolman for a member who retires after December 31, 2007.** The pensions shall be computed on an annual basis but shall be paid in twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) If a member retires upon ~~his~~ **the member's** voluntary application

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after twenty (20) years or more of active service, ~~he the member~~ then relinquishes all rights to other benefits or pensions for disability during the time of ~~his the member's~~ retirement.

(d) After retirement the member is not required to render further services on the police department and is no longer subject to the rules of the police department, unless a national emergency has been declared by the local board, on application by the executive, the safety board, and the police chief of the city. Upon declaration of such an emergency, the retired member, if physically able, shall return to active duty under the rank ~~he the member~~ attained at the time of ~~his the member's~~ retirement, and if ~~he the member~~ refuses to return to active duty upon being declared physically fit, ~~he the member~~ forfeits ~~his the member's~~ right to receive ~~his the member's~~ pension until the time ~~he the member~~ returns to active duty and again is retired or discharged from service.

(e) No pension, annuity, or benefit provided by this chapter is payable by the local board except upon written application by the member of the police department, or the surviving spouse or other dependent, upon the forms and with the information required by the local board.

SECTION 7. IC 36-8-7.5-13, AS AMENDED BY P.L.62-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 13. (a) For a member who becomes disabled before July 1, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to:

(1) fifty percent (50%) for a disease or disability occurring before July 1, 1991; and

(2) fifty-five percent (55%) for a disease or disability occurring after June 30, 1991;

of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(b) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered or contracted a mental or physical disease or disability that renders the member permanently unfit for active duty in the police department, or to an active member of the police department who has been in active service for less than one (1) year who has suffered or received personal injury from violent external causes while in the actual discharge of the member's duties as a police officer. The pensions provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department.

(b) For a member who becomes disabled after June 30, 2000, the

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1 1953 fund shall be used to pay a pension in an annual sum equal to
 2 fifty-five percent (55%) of the salary of a first class patrolman in the
 3 police department **for a member who becomes disabled before**
 4 **January 1, 2008, or eighty-three percent (83%) of the salary of a**
 5 **first class patrolman in the police department for a member who**
 6 **becomes disabled after December 31, 2007**, computed on an annual
 7 basis and payable in twelve (12) equal monthly installments, to an
 8 active member of the police department who:

9 (1) has suffered or incurred a disability that renders the member
 10 permanently unfit for active duty in the police department and
 11 that is:

12 (A) the direct result of:

13 (i) a personal injury that occurs while the fund member is on
 14 duty;

15 (ii) a personal injury that occurs while the fund member is
 16 off duty and is responding to an offense or a reported
 17 offense; or

18 (iii) an occupational disease (as defined in IC 22-3-7-10),
 19 including a duty related disease that is also included within
 20 clause (B);

21 (B) a duty related disease (for purposes of this section, a "duty
 22 related disease" means a disease arising out of the fund
 23 member's employment. A disease is considered to arise out of
 24 the fund member's employment if it is apparent to the rational
 25 mind, upon consideration of all of the circumstances, that:

26 (i) there is a connection between the conditions under which
 27 the fund member's duties are performed and the disease;

28 (ii) the disease can be seen to have followed as a natural
 29 incident of the fund member's duties as a result of the
 30 exposure occasioned by the nature of the fund member's
 31 duties; and

32 (iii) the disease can be traced to the fund member's
 33 employment as the proximate cause); or

34 (C) a disability presumed incurred in the line of duty under
 35 IC 5-10-13 or IC 5-10-15; and

36 (2) is unable to perform the essential functions of the job,
 37 considering reasonable accommodation to the extent required by
 38 the Americans with Disabilities Act.

39 The pensions provided for in this subsection shall be paid only so long
 40 as the member of the police department remains unfit for active duty
 41 in the police department. If the salary of a first class patrolman is
 42 increased or decreased, the pension payable shall be proportionately

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1 increased or decreased. However, the monthly pension payable to a
 2 member or survivor may not be reduced below the amount of the first
 3 full monthly pension received by that person.

4 (c) For a member who becomes disabled after June 30, 2000, the
 5 1953 fund shall be used to pay a pension in an annual sum equal to
 6 fifty-five percent (55%) of the salary of a first class patrolman in the
 7 police department **for a member who becomes disabled before**
 8 **January 1, 2008, or eighty-three percent (83%) of the salary of a**
 9 **first class patrolman in the police department for a member who**
 10 **becomes disabled after December 31, 2007**, computed on an annual
 11 basis and payable in twelve (12) equal monthly installments, to an
 12 active member of the police department who has been in active service
 13 for at least one (1) year and:

14 (1) has suffered or incurred a disability that:

15 (A) renders the member permanently unfit for active duty in
 16 the police department; and

17 (B) is not described in subsection (b)(1); and

18 (2) is unable to perform the essential functions of the job,
 19 considering reasonable accommodation to the extent required by
 20 the Americans with Disabilities Act.

21 The pension provided in this subsection shall be paid only so long as
 22 the member of the police department remains unfit for active duty in
 23 the police department. If the salary of a first class patrolman is
 24 increased or decreased, the pension payable shall be proportionately
 25 increased or decreased. However, the monthly pension payable to a
 26 member or survivor may not be reduced below the amount of the first
 27 full monthly pension received by that person.

28 (d) For a member who became disabled before July 1, 2000, the
 29 1953 fund shall be used to pay temporary benefits in an annual sum
 30 equal to thirty percent (30%) of the salary of a first class patrolman in
 31 the police department, computed and payable as prescribed by section
 32 12(a) of this chapter, to an active member of the police department who
 33 has been in active service for more than one (1) year and who has
 34 suffered any physical or mental disability that renders the member
 35 temporarily or permanently unable to perform the member's duties as
 36 a member of the police department, or to an active member of the
 37 police department who has been in active service for less than one (1)
 38 year and who has suffered or received personal injury from violent
 39 external causes while in the actual discharge of the member's duties as
 40 a police officer, until the time the member is physically and mentally
 41 able to return to active service on the police department.

42 (e) For a member who becomes disabled after June 30, 2000, the

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1 1953 fund shall be used to pay a pension in an annual sum equal to
 2 thirty percent (30%) of the salary of a first class patrolman in the police
 3 department **for a member who becomes disabled before January 1,**
 4 **2008, or forty-five percent (45%) of the salary of a first class**
 5 **patrolman in the police department for a member who becomes**
 6 **disabled after December 31, 2007,** computed on an annual basis and
 7 payable in twelve (12) equal monthly installments, to an active member
 8 of the police department who:

9 (1) suffers or incurs a disability that renders the member
 10 temporarily unfit for active duty in the police department and that
 11 is:

12 (A) the direct result of:

13 (i) a personal injury that occurs while the fund member is on
 14 duty;

15 (ii) a personal injury that occurs while the fund member is
 16 off duty and is responding to an offense or a reported
 17 offense, in the case of a police officer; or

18 (iii) an occupational disease (as defined in IC 22-3-7-10),
 19 including a duty related disease that is also included within
 20 clause (B);

21 (B) a duty related disease (for purposes of this section, a "duty
 22 related disease" means a disease arising out of the fund
 23 member's employment. A disease is considered to arise out of
 24 the fund member's employment if it is apparent to the rational
 25 mind, upon consideration of all of the circumstances, that:

26 (i) there is a connection between the conditions under which
 27 the fund member's duties are performed and the disease;

28 (ii) the disease can be seen to have followed as a natural
 29 incident of the fund member's duties as a result of the
 30 exposure occasioned by the nature of the fund member's
 31 duties; and

32 (iii) the disease can be traced to the fund member's
 33 employment as the proximate cause); or

34 (C) a disability presumed incurred in the line of duty under
 35 IC 5-10-13 or IC 5-10-15; and

36 (2) is unable to perform the essential functions of the job,
 37 considering reasonable accommodation to the extent required by
 38 the Americans with Disabilities Act.

39 The pension provided in this subsection shall be paid only so long as
 40 the member of the police department remains unfit for active duty in
 41 the police department. If the salary of a first class patrolman is
 42 increased or decreased, the pension payable shall be proportionately

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1 increased or decreased. However, the monthly pension payable to a
 2 member or survivor may not be reduced below the amount of the first
 3 full monthly pension received by that person.

4 (f) For a member who becomes disabled after June 30, 2000, the
 5 1953 fund shall be used to pay temporary benefits in an annual sum
 6 equal to thirty percent (30%) of the salary of a first class patrolman in
 7 the police department **for a member who becomes disabled before**
 8 **January 1, 2008, or forty-five percent (45%) of the salary of a first**
 9 **class patrolman in the police department for a member who**
 10 **becomes disabled after December 31, 2007**, computed on an annual
 11 basis and payable in twelve (12) equal monthly installments, to an
 12 active member of the police department:

13 (1) who has been in active service for at least one (1) year;

14 (2) suffers or incurs a disability that:

15 (A) renders the member temporarily unfit for active duty in the
 16 police department; and

17 (B) is not described in subsection (e)(1); and

18 (3) is unable to perform the essential functions of the job,
 19 considering reasonable accommodation to the extent required by
 20 the Americans with Disabilities Act.

21 The pension provided for in this subsection shall be paid only so long
 22 as the member of the police department remains unfit for active duty
 23 in the police department. If the salary of a first class patrolman is
 24 increased or decreased, the pension payable shall be proportionately
 25 increased or decreased. However, the monthly pension payable to a
 26 member or survivor may not be reduced below the amount of the first
 27 full monthly pension received by that person.

28 (g) If an application is made by an active member of the police
 29 department because of physical or mental disability for temporary
 30 benefits as provided in subsection (d), (e), or (f), the benefit is not
 31 payable until the local board determines after a hearing conducted
 32 under IC 36-8-8-12.7 that the member is unfit for active duty on the
 33 police department, considering reasonable accommodation to the
 34 extent required by the Americans with Disabilities Act. Before the
 35 hearing, a physician to be appointed by the local board shall examine
 36 the member and certify in writing whether in the physician's opinion
 37 the member is unfit, physically or mentally, for active duty in the police
 38 department. After the pension or benefit has been granted by the local
 39 board, the payment commences with the original date of the injury or
 40 illness causing the disability.

41 (h) A member who has been granted a disability benefit under this
 42 section and who fails or refuses to submit to a physical examination at

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any time by the local board physician has no right in the future to receive the disability benefit, and any benefit that has been granted shall be immediately canceled by the local board.

(i) The local board may, from time to time, require a member of the police department who is receiving at any time disability benefits or pensions as provided in this section to be examined by the physician appointed by the local board. After the examination, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the member should continue to receive the pension or benefit. If after the examination and hearing the member is found to have recovered from the member's disability and is fit for active duty on the police department, then upon written notice to the member by the local board, the member shall be reinstated in active service, the safety board shall be informed of the action of the local board, and from that time the member is no longer entitled to payments from the 1953 fund. If the member fails or refuses to return to active duty after ordered by the local board, the member ceases to be a member of the 1953 fund and waives all rights to any further pensions or benefits provided by the 1953 fund.

(j) Notwithstanding any other provision of this chapter, no disability benefit may be paid for any disability based upon or caused by any mental or physical condition that a member had at the time the member entered or reentered the member's active service in the police department.

(k) If a member who is receiving disability benefits under subsection (a), (b), or (c) for a disease or disability occurring after June 30, 1991, is transferred from disability to regular retirement status, the member's monthly pension may not be reduced below fifty-five percent (55%) of the salary of a first class patrolman at the time of payment of the pension.

(l) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

(m) A fund member who is receiving disability benefits under subsection (d) or (f) shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

(n) A fund member who is receiving disability benefits under subsection (e) is entitled to:

- (1) receive a disability benefit for the remainder of the fund

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1 member's life; and

2 (2) have the amount of the disability benefit computed under
3 section 12 of this chapter when the fund member becomes
4 fifty-five (55) years of age.

5 SECTION 8. IC 36-8-7.5-13.6 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 13.6. (a) This
7 section applies to an active or retired member who dies other than in
8 the line of duty (as defined in section 14.1 of this chapter).

9 (b) The 1953 fund shall be used to pay an annuity, computed under
10 subsection (g) and payable in monthly installments, to the surviving
11 spouse of a member of the fund who dies from any cause after having
12 served for one (1) year or more. The annuity continues during the life
13 of the surviving spouse unless the spouse remarried before September
14 1, 1983. If the spouse remarried before September 1, 1983, benefits
15 ceased on the date of remarriage. If a member of the fund died, but not
16 in the line of duty, and the member's surviving spouse remarried before
17 September 1, 1983, the benefits of the surviving spouse shall be
18 reinstated on July 1, 1997, and continue during the life of the surviving
19 spouse.

20 (c) The 1953 fund shall also be used to pay an annuity equal to
21 twenty percent (20%) of the salary of a first class patrolman on the
22 police department **for a member who dies before January 1, 2008,**
23 **or thirty percent (30%) of the salary of a first class patrolman in**
24 **the police department for a member who dies after December 31,**
25 **2007,** computed as provided in section 12(b) of this chapter and
26 payable in monthly installments, to each dependent child of a member
27 of the fund who dies from any cause after having served for one (1)
28 year or more as an active member of the police department. The
29 pension to each child continues:

- 30 (1) until the child becomes eighteen (18) years of age;
31 (2) until the child becomes twenty-three (23) years of age if the
32 child is enrolled in and regularly attending a secondary school or
33 is a full-time student at an accredited college or university; or
34 (3) during the entire period of the child's physical or mental
35 disability;

36 whichever period is longest. However, the pension to the child ceases
37 if the child marries or is legally adopted by any person.

38 (d) If a deceased member leaves no surviving spouse and no child
39 who qualifies for a benefit under subsection (c) but does leave a
40 dependent parent or parents, the 1953 fund is used to pay an annuity
41 not greater than a sum equal to twenty percent (20%) of the salary of
42 a first class patrolman on the police department **for a member who**

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1 **dies before January 1, 2008, or thirty percent (30%) of the salary**
 2 **of a first class patrolman in the police department for a member**
 3 **who dies after December 31, 2007,** computed and payable as provided
 4 in section 12(b) of this chapter, payable monthly to the dependent
 5 parent or parents of a member of the police department who dies from
 6 any cause after having served for one (1) year or more as an active
 7 member of the police department. The annuity continues for the
 8 remainder of the life or lives of the parent or parents as long as either
 9 or both fail to have sufficient other income for their proper care,
 10 maintenance, and support.

11 (e) In all cases of payment to a dependent relative of a deceased
 12 member, the local board is the final judge of the question of necessity
 13 and dependency and of the amount within the stated limits to be paid.
 14 The local board may also reduce or terminate temporarily or
 15 permanently a payment to a dependent relative of a deceased member
 16 when it determines that the condition of the 1953 fund or other
 17 circumstances make this action necessary.

18 (f) If the salary of a first class patrolman is increased or decreased,
 19 the pension payable under this section shall be proportionately
 20 increased or decreased. However, the monthly pension payable to a
 21 member or survivor may not be reduced below the amount of the first
 22 full monthly pension received by that person.

23 (g) Except as otherwise provided in this subsection, the annuity
 24 payable under subsection (b) equals one (1) of the following:

25 (1) For the surviving spouse of a member who dies before January
 26 1, 1989, thirty percent (30%) of the salary of a first class
 27 patrolman.

28 (2) For the surviving spouse of a member who dies after
 29 December 31, 1988, **and before January 1, 2008,** an amount per
 30 month during the spouse's life equal to the greater of:

31 (A) thirty percent (30%) of the monthly pay of a first class
 32 patrolman; or

33 (B) fifty-five percent (55%) of the monthly benefit the
 34 deceased member was receiving or was entitled to receive on
 35 the date of the member's death.

36 **(3) For the surviving spouse of a member who dies after**
 37 **December 31, 2007, an amount per month during the spouse's**
 38 **life equal to the greater of:**

39 **(A) forty-five percent (45%) of the monthly pay of a first**
 40 **class patrolman; or**

41 **(B) eighty-three percent (83%) of the monthly benefit the**
 42 **deceased member was receiving or was entitled to receive**

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1 **on the date of the member's death.**

2 However, if the deceased member was not entitled to a benefit because
3 the member had not completed twenty (20) years of service, for the
4 purposes of computing the amount under subdivision (2)(B) **or (3)(B)**
5 the member's benefit is considered to be fifty percent (50%) of the
6 monthly salary of a first class patrolman **for a member who dies**
7 **before January 1, 2008, or seventy-five percent (75%) of the salary**
8 **of a first class patrolman for a member who dies after December**
9 **31, 2007.** The amount provided in this subdivision is subject to
10 adjustment as provided in subsection (f).

11 SECTION 9. IC 36-8-7.5-13.7 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 13.7. (a) This
13 section applies to a member who died in the line of duty (as defined in
14 section 14.1 of this chapter) before September 1, 1982.

15 (b) The 1953 fund shall be used to pay an annuity, computed under
16 subsection (g) and payable in monthly installments, to the surviving
17 spouse of a member. The annuity continues during the life of the
18 surviving spouse unless the spouse remarried before September 1,
19 1983. If the spouse remarried before September 1, 1983, benefits
20 ceased on the date of remarriage. If a member of the fund died, but not
21 in the line of duty, and the member's surviving spouse remarried before
22 September 1, 1983, the benefits of the surviving spouse shall be
23 reinstated on July 1, 1997, and continue during the life of the surviving
24 spouse.

25 (c) The 1953 fund shall also be used to pay an annuity equal to
26 twenty percent (20%) of the salary of a first class patrolman on the
27 police department **for a member who dies before January 1, 2008,**
28 **or thirty percent (30%) of the salary of a first class patrolman in**
29 **the police department for a member who dies after December 31,**
30 **2007,** computed as provided in section 12(b) of this chapter and
31 payable in monthly installments, to each dependent child of a member
32 of the fund who dies from any cause while in the actual discharge of
33 duties as a police officer. The pension to each child continues:

- 34 (1) until the child becomes eighteen (18) years of age;
- 35 (2) until the child becomes twenty-three (23) years of age if the
- 36 child is enrolled in and regularly attending a secondary school or
- 37 is a full-time student at an accredited college or university; or
- 38 (3) during the entire period of the child's physical or mental
- 39 disability;

40 whichever period is longest. However, the pension to the child ceases
41 if the child marries or is legally adopted by any person.

42 (d) If a deceased member leaves no surviving spouse and no child

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1 who qualifies for a benefit under subsection (c) but does leave a
 2 dependent parent or parents, the 1953 fund shall be used to pay an
 3 annuity not greater than a sum equal to twenty percent (20%) of the
 4 salary of a first class patrolman on the police department **for a**
 5 **member who dies before January 1, 2008, or thirty percent (30%)**
 6 **of the salary of a first class patrolman in the police department for**
 7 **a member who dies after December 31, 2007**, computed and payable
 8 as provided in section 12(b) of this chapter, payable monthly to the
 9 dependent parent or parents of a member of the police department. The
 10 annuity continues for the remainder of the life or lives of the parent or
 11 parents as long as either or both fail to have sufficient other income for
 12 their proper care, maintenance, and support.

13 (e) In all cases of payment to a dependent relative of a deceased
 14 member, the local board is the final judge of the question of necessity
 15 and dependency and of the amount within the stated limits to be paid.
 16 The local board may also reduce or terminate temporarily or
 17 permanently a payment to a dependent relative of a deceased member
 18 when it determines that the condition of the 1953 fund or other
 19 circumstances make this action necessary.

20 (f) If the salary of a first class patrolman is increased or decreased,
 21 the pension payable under this section shall be proportionately
 22 increased or decreased. However, the monthly pension payable to a
 23 member or survivor may not be reduced below the amount of the first
 24 full monthly pension received by that person.

25 (g) The annuity payable under subsection (b) equals thirty percent
 26 (30%) of the salary of a first class patrolman **for a member who dies**
 27 **before January 1, 2008, and forty-five percent (45%) of the salary**
 28 **of a first class patrolman for a member who dies after December**
 29 **31, 2007**. The amount provided in this subsection is subject to
 30 adjustment as provided in subsection (f).

31 (h) The unit of local government that employed the deceased
 32 member shall after December 31, 2003, offer to provide and pay for
 33 health insurance coverage for the member's surviving spouse and for
 34 each natural child, stepchild, or adopted child of the member:

- 35 (1) until the child becomes eighteen (18) years of age;
- 36 (2) until the child becomes twenty-three (23) years of age if the
- 37 child is enrolled in and regularly attending a secondary school or
- 38 is a full-time student at an accredited college or university; or
- 39 (3) during the entire period of the child's physical or mental
- 40 disability;

41 whichever period is longest. If health insurance coverage is offered by
 42 the unit to active members, the health insurance provided to a surviving

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spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

SECTION 10. IC 36-8-7.5-14.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 14.1. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a first class patrolman **for a member who dies before January 1, 2008, and seventy-five percent (75%) of the monthly wage received by a first class patrolman for a member who dies after December 31, 2007.** If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. However, if a member of the police department dies in the line of duty after August 31, 1982, and the member's surviving spouse remarried before September 1, 1983, the benefits for the surviving spouse shall be reinstated on July 1, 1995, and continue during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department **for a member who dies before January 1, 2008, and thirty percent (30%) of the salary of a first class patrolman on the police department for a member who dies after December 31, 2007,** computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longest. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional

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benefit in an amount fixed by ordinance, but the total benefit to all the member's children under this subsection may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman **for a member who dies before January 1, 2008, and forty-five percent (45%) of the wages received by a first class patrolman for a member who dies after December 31, 2007.** However, this limitation does not apply to the children of a member who are physically or mentally disabled.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department **for a member who dies before January 1, 2008, or thirty percent (30%) of the salary of a first class patrolman on the police department for a member who dies after December 31, 2007,** computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department who dies from any cause while in the actual discharge of duties as a police officer. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(f) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(g) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(h) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member, in the member's capacity as a police officer:

- (1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
- (2) performs in the course of controlling or reducing crime or enforcing the criminal law.

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The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(i) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

SECTION 11. IC 36-8-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 11. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) Each fund member who qualifies for a retirement benefit payment under section 10(b) of this chapter is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman **for a police officer who retires before January 1, 2008**, or firefighter in the year the member ended **his the member's** active service, **or seventy-five percent (75%) of the monthly salary of a first class patrolman for a police officer who retires after December 31, 2007**, plus:

- (1) for a member who retires before January 1, 1986, two percent (2%) of that salary for each full year of active service; or
- (2) for a member who retires after December 31, 1985, one percent (1%) of that salary for each six (6) months of active service;

over twenty (20) years, to a maximum of twelve (12) years.

(c) Each fund member who qualifies for a retirement benefit payment under section 10(c) of this chapter is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman **for a police officer who retires before January 1, 2008**, or firefighter in the year the member ended **his the member's** active service, **or seventy-five percent (75%) of the**

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1 **monthly salary of a first class patrolman in the year the member**
 2 **ended the member's active service for a police officer who retires**
 3 **after December 31, 2007,** plus one percent (1%) of that salary for each
 4 six (6) months of active service over twenty (20) years, to a maximum
 5 of twelve (12) years, all actuarially reduced for each month (if any) of
 6 benefit payments prior to fifty-two (52) years of age, by a factor
 7 established by the fund's actuary from time to time.

8 SECTION 12. IC 36-8-8-13.5 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 13.5. (a) This
 10 section applies only to a fund member who:

- 11 (1) is hired for the first time after December 31, 1989;
- 12 (2) chooses coverage by this section and section 12.5 of this
- 13 chapter under section 12.4 of this chapter; or
- 14 (3) is described in section 12.3(c)(2) of this chapter.

15 (b) A fund member who is determined to have a Class 1 impairment
 16 and for whom it is determined that there is no suitable and available
 17 work within the fund member's department, considering reasonable
 18 accommodation to the extent required by the Americans with
 19 Disabilities Act, is entitled to a monthly base benefit equal to:

- 20 (1) forty-five percent (45%) of the monthly salary of a first class
- 21 patrolman **for a police officer for whom a local board makes a**
- 22 **determination of impairment before January 1, 2008,** or
- 23 firefighter in the year of the local board's determination of
- 24 impairment; or
- 25 (2) **sixty-eight percent (68%) of the monthly salary of a first**
- 26 **class patrolman for a police officer for whom a local board**
- 27 **makes a determination of impairment after December 31,**
- 28 **2007, in the year of the local board's determination of**
- 29 **impairment.**

30 (c) A fund member who is determined to have a Class 2 impairment
 31 and for whom it is determined that there is no suitable and available
 32 work within the fund member's department, considering reasonable
 33 accommodation to the extent required by the Americans with
 34 Disabilities Act, is entitled to a monthly base benefit equal to:

- 35 (1) twenty-two percent (22%) of the monthly salary of a first class
- 36 patrolman **for a police officer for whom a local board makes a**
- 37 **determination of impairment before January 1, 2008,** or
- 38 firefighter in the year of the local board's determination of
- 39 impairment; or
- 40 (2) **thirty-three percent (33%) of the monthly salary of a first**
- 41 **class patrolman in the year of the local board's determination**
- 42 **of impairment for a police officer for whom a local board**

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makes a determination of impairment after December 31, 2007;

plus one-half percent (0.5%) of that salary for each year of service, up to a maximum of thirty (30) years of service.

(d) For applicants hired before March 2, 1992, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to the product of the member's years of service (not to exceed thirty (30) years of service) multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(e) For applicants hired after March 1, 1992, or described in section 12.3(c)(2) of this chapter, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to the following benefits instead of benefits provided under subsection (d):

(1) If the fund member did not have a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund, the fund member is entitled to a monthly base benefit equal to the product of the member's years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(2) Except as provided in subdivision (5), a fund member is entitled to receive the benefits set forth in subdivision (1) if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund;

(B) the fund member has a Class 3 impairment that is not related in any manner to the Class 3 excludable condition described in clause (A); and

(C) the Class 3 impairment described in clause (B) occurs after the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(3) Except as provided in subdivision (5), a fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

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(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment occurs before the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(4) A fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment is related in any manner to the Class 3 excludable condition.

(5) If, during the first four (4) years of service with the employer:

(A) a fund member with a Class 3 excludable condition is determined to have a Class 3 impairment; and

(B) the Class 3 impairment is attributable to an accidental injury that is not related in any manner to the fund member's Class 3 excludable condition;

the member is entitled to receive the benefits provided in subdivision (1) with respect to the accidental injury. For purposes of this subdivision, the local board shall make the initial determination of whether an impairment is attributable to an accidental injury. The local board shall forward the initial determination to the director of the PERF board for a final determination by the PERF board or the PERF board's designee.

(f) If a fund member is entitled to a monthly base benefit under subsection (b), (c), (d), or (e), the fund member is also entitled to a monthly amount:

(1) that is no less than ten percent (10%) and no greater than forty-five percent (45%) of the monthly salary of a first class patrolman **for a police officer for whom a local board makes a determination of impairment before January 1, 2008**, or firefighter in the year of the local board's determination of impairment; or

(2) **that is not less than fifteen percent (15%) and not greater than sixty-eight percent (68%) of the monthly salary of a first class patrolman in the year of the local board's determination of impairment for a police officer for whom a local board makes a determination of impairment after December 31, 2007.**

The additional monthly amount shall be determined by the PERF

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1 medical authority based on the degree of impairment.

2 (g) Benefits for a Class 1 impairment are payable until the fund
3 member becomes fifty-two (52) years of age. Benefits for a Class 2 and
4 a Class 3 impairment are payable:

5 (1) for a period equal to the years of service of the member, if the
6 member's total disability benefit is less than:

7 (A) thirty percent (30%) of the monthly salary of a first class
8 patrolman **for a police officer for whom a local board**
9 **makes a determination of impairment before January 1,**
10 **2008,** or firefighter in the year of the local board's
11 determination of impairment; or

12 (B) forty-five percent (45%) of the monthly salary of a first
13 class patrolman in the year of the local board's
14 determination of impairment for a police officer for whom
15 a local board makes a determination of impairment after
16 December 31, 2007;

17 and the member has fewer than four (4) years of service; or

18 (2) until the member becomes fifty-two (52) years of age if the
19 member's benefit is:

20 (A) equal to or greater than:

21 (i) thirty percent (30%) of the monthly salary of a first class
22 patrolman **for a police officer for whom a local board**
23 **makes a determination of impairment before January 1,**
24 **2008,** or firefighter in the year of the local board's
25 determination of impairment; or

26 (ii) forty-five percent (45%) of the monthly salary of a
27 first class patrolman in the year of the local board's
28 determination of impairment for a police officer for
29 whom a local board makes a determination of
30 impairment after December 31, 2007; or

31 (B) less than:

32 (i) thirty percent (30%) of the monthly salary of a first class
33 patrolman **for a police officer for whom a local board**
34 **makes a determination of impairment before January 1,**
35 **2008,** or firefighter in the year of the local board's
36 determination of impairment; or

37 (ii) forty-five percent (45%) of the monthly salary of a
38 first class patrolman in the year of the local board's
39 determination of impairment for a police officer for
40 whom a local board makes a determination of
41 impairment after December 31, 2007;

42 if the member has at least four (4) years of service.

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(h) Upon becoming fifty-two (52) years of age, a fund member with a Class 1 or Class 2 impairment is entitled to receive the retirement benefit payable to a fund member with:

- (1) twenty (20) years of service; or
- (2) the total years of service and salary, as of the year the member becomes fifty-two (52) years of age, that the fund member would have earned if the fund member had remained in active service until becoming fifty-two (52) years of age;

whichever is greater.

(i) Upon becoming fifty-two (52) years of age, a fund member who is receiving or has received a Class 3 impairment benefit that is:

- (1) equal to or greater than:

(A) thirty percent (30%) of the monthly salary of a first class patrolman for a police officer for whom a local board makes a determination of impairment before January 1, 2008, or firefighter in the year of the local board's determination of impairment; or

(B) forty-five percent (45%) of the monthly salary of a first class patrolman in the year of the local board's determination of impairment for a police officer for whom a local board makes a determination of impairment after December 31, 2007; or

- (2) less than:

(A) thirty percent (30%) of the monthly salary of a first class patrolman for a police officer for whom a local board makes a determination of impairment before January 1, 2008, or firefighter in the year of the local board's determination of impairment; or

(B) forty-five percent (45%) of the monthly salary of a first class patrolman in the year of the local board's determination of impairment for a police officer who becomes disabled after December 31, 2007;

if the member has at least four (4) years of service; is entitled to receive the retirement benefit payable to a fund member with twenty (20) years of service.

(j) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

- (1) has had a covered impairment;
- (2) recovers and returns to active service with the department; and
- (3) within two (2) years after returning to active service has an impairment that, except for section 12.3(b)(3) of this chapter, would be a covered impairment;

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is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 13. IC 36-8-8-13.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 13.8. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter) after August 31, 1982.

(b) If a fund member dies while receiving retirement or disability benefits, the following apply:

(1) Except as otherwise provided in this subsection, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit **for a firefighter, twenty percent (20%) of the fund member's monthly benefit for a police officer who dies before January 1, 2008, or thirty percent (30%) of the fund member's monthly benefit for a police officer who dies after December 31, 2007:**

(A) until the child becomes eighteen (18) years of age; or

(B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death **for a firefighter who dies before, on, or after January 1, 2008, or a police officer who dies before January 1, 2008, or the greater of forty-five percent (45%) of the monthly pay of a first class patrolman or eighty-three percent (83%) of the monthly benefit the deceased member was receiving or was**

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entitled to receive on the date of the member's death for a police officer who dies after December 31, 2007, as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to:

(A) sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime **for a firefighter;**

(B) sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime **for a police officer who dies before January 1, 2008; or**

(C) ninety percent (90%) of the fund member's monthly benefit during the spouse's lifetime **for a police officer who dies after December 31, 2007.**

If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If a fund member dies while receiving retirement or disability benefits, there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime **for a firefighter, fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime for a police officer who dies before January 1, 2008, or seventy-five percent (75%) of the fund member's monthly benefit during the parent's or parents' lifetime for a police officer who dies after December 31, 2007.**

(c) Except as otherwise provided in this subsection, if a fund member dies while on active duty or while retired and not receiving benefits, the member's children and the member's spouse, or the member's parent or parents are entitled to receive a monthly benefit determined under subsection (b). If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit is computed as if the member:

(1) did have twenty (20) years of service; and

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(2) was fifty-two (52) years of age.

SECTION 14. IC 36-8-8-14.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) This section applies to an active member who dies in the line of duty after August 31, 1982.

(c) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to a monthly benefit during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at fifty-two (52) years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) If a fund member dies in the line of duty, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit **for a firefighter, twenty percent (20%) of the fund member's monthly benefit for a police officer who dies before January 1, 2008, or thirty percent (30%) of the fund member's monthly benefit for a police officer who dies after December 31, 2007:**

(1) until the child reaches eighteen (18) years of age; or

(2) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death **for a firefighter who dies before, on, or after January 1, 2008, or a police officer who dies before January 1, 2008, or an amount each month that is equal to the greater of forty-five percent (45%) of the monthly pay of a first class patrolman or eighty-three percent (83%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death for a police officer who dies after December 31, 2007,** as long as the mental or physical

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incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(e) If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive:

(1) fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime **for a firefighter;**

(2) fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime for a police officer who dies before January 1, 2008; or

(3) a monthly benefit equal to seventy-five percent (75%) of the fund member's monthly benefit during the parent's or parents' lifetime for a police officer who dies after December 31, 2007.

(f) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years old, the benefit is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was fifty-two (52) years of age.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from:

(1) any action that the member, in the member's capacity as a police officer:

(A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(B) performs in the course of controlling or reducing crime or enforcing the criminal law; or

(2) any action that the member, in the member's capacity as a firefighter:

(A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(B) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(h) The unit of local government that employed the deceased

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member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

SECTION 15. [EFFECTIVE JANUARY 1, 2008] (a) This SECTION applies to the following:

- (1) A 1925 police pension fund under IC 36-8-6.**
- (2) The 1953 police pension fund under IC 36-8-7.5.**
- (3) The 1977 police officers' and firefighters' pension and disability fund under IC 36-8-8.**

(b) A pension fund described in subsection (a) shall provide for a one (1) time increase under subsection (c) in the amount of the benefits paid to the following:

- (1) A fund member who is a police officer and who is receiving retirement benefits or disability benefits from the fund as of December 31, 2007.**
- (2) A survivor of a fund member who is a police officer, if the survivor is receiving survivor benefits from the fund as of December 31, 2007.**

(c) The increase required by subsection (b) is equal to the amount necessary to ensure that the member or survivor receives benefits on and after the member's or survivor's first benefit payment in January 2008, in the amount that the member or survivor would have received under IC 36-8-6, IC 36-8-7.5, and IC 36-8-8, all as amended by this act, if the member had retired, become disabled, or died after December 31, 2007.

(d) The increases specified in this SECTION:

- (1) are based upon the date of the member's latest retirement or disability;**
- (2) do not apply to benefits payable in a lump sum; and**

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1 **(3) are in addition to any other increase provided by law.**
2 **(e) This SECTION expires July 1, 2009.**

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